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 8 CITY AND COUNTY OF SAN FRANCISCO
 9 and SFPD CHIEF HEATHER FONG

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

12 CLAYTON HARMSTON, an individual; GIGI
 13 GEORGE, an individual; JAMES LEWIS, an
 14 individual; MIKE EVANSON, an individual;
 15 ERIK SOLARES, an individual; DAVE PARRY,
 16 an individual; ANDREW COHEN, an individual;
 17 NOAH MALLINGER, an individual; CARLOS
 18 MUSTAFICH, an individual; LUIS DEJESUS, an
 individual; JAMES D. AHERNE, an individual;
 JASON KIRCHNER, an individual; REGINALD
 SCOTT, an individual; GERALD P. LYONS, an
 individual; WENDY HURLEY, an individual;
 HOLLY STOUMEN, an individual; CHRISTINE
 ARNDT, an individual; SHAREEF NASIR, an
 individual,

19 Plaintiffs,
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21 vs.
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CITY AND COUNTY OF SAN FRANCISCO,
 HEATHER FONG, an individual, and DOES 1-50,

23 Defendants.
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25 Case No. C 07-01186 SI
 26 Case No. C07-6208 EMC

**DEFENDANTS' REPLY
 MEMORANDUM IN SUPPORT OF
 THEIR MOTION TO
 CONSOLIDATE AND MERGE
 CASES**

Date: February 1, 2008
 Time: 9:00 a.m.
 Courtroom: 10, 19th Floor
 Hon. Susan Illston

1 Plaintiffs did not file a brief in response to Defendants' motion to merge and consolidate.
 2 Rather, Plaintiffs' opposition to the 12(b)(6) motion Defendants filed in *Cohen-Lewis II* informs
 3 Defendants and the Court that "Plaintiffs are not opposing the pending motion by Defendants to
 4 consolidate this matter with the *Harmston* litigation." (*Cohen-Lewis* Opp. Mem. at 2:4-5)

5 The Court should consolidate and merge these matters pursuant to FRCP 42(a).

6 Consolidation and merger are proper and should be ordered based on the existence of common
 7 questions of law or fact; the savings of time and effort that consolidation and merger will produce;
 8 and the fact that the claims asserted in *Cohen-Lewis II* arise out of the same primary right as the
 9 claims in this case, such that they may not be separately asserted in that action. *San Remo Hotel v.*
 10 *City & County of San Francisco*, 545 U.S. 323, 336 (2005); *Davis v. University of Chicago*, 53 F.3d
 11 801, 803 (1995).

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 13 Dated: January 16, 2008

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 24 and HEATHER FONG